

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

BLAKE LEON ADMIRE,

No. CV 09-554-AC

OPINION AND ORDER

Petitioner,

v.

**RICK COURSEY, Superintendent,
Eastern Oregon Correctional Institution,**

Respondent.

MOSMAN, J.,

On April 15, 2010, Magistrate Judge Acosta issued Findings and Recommendation ("F&R") (#31) in the above-captioned case recommending that the Petition for Writ of Habeas Corpus (#2) be denied and a judgment of dismissal entered. Petitioner Blake Admire objected to the F&R, asking only that this Court conduct de novo review of the F&R. (Objections (#36).)

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a de novo or any other standard, the factual or legal

conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Applying de novo review, I agree with Judge Acosta's recommendation, and I ADOPT the F&R (#31) as my own opinion. The Petition for Writ of Habeas Corpus (#2) is DENIED. Should Petitioner appeal, a certificate of appealability is DENIED, as Petitioner has not made a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 17th day of June, 2010.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court